

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
NATIONAL SCIENCE AND TECHNOLOGY)	
NETWORK, INC.)	FCC File No. D148338
)	
Petition for Reconsideration of Dismissal of)	
Application for Modification of License for)	
Industrial/Business Station WPLR710)	
)	

ORDER ON RECONSIDERATION

Adopted: December 10, 2001**Released: December 12, 2001**

By the Chief, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us a petition for reconsideration (Petition), submitted by National Science and Technology Network, Inc. (NSTN) on August 6, 2001.¹ NSTN requests reconsideration of the July 24, 2001 dismissal of NSTN's application for modification of Industrial/Business Station WPLR710. For the reasons discussed below, we dismiss the Petition.

2. *Background.* On November 3, 2000, NSTN filed the above-referenced modification application seeking to add fixed, temporary fixed, and mobile operations to its authorization for Station WPLR710 in the 470-512 MHz band.² On July 24, 2001, the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch (LTAB) dismissed the application for failing to meet the distance separation requirements of Section 90.307 of the Commission's Rules.³

3. On August 6, 2001, the Commission's Gettysburg, Pennsylvania office received a letter from NSTN requesting reconsideration of the July 24, 2001 dismissal. In that letter, NSTN stated that the Commission erred in dismissing the application because if it had applied "the FCC policy of rounding off to the nearest mile," the site would be in compliance with the Commission's Rules.⁴ Although the letter indicates that a copy was sent to the Office of the Secretary in Washington, DC, the Petition was never received in the Office of the Secretary.

4. *Discussion.* We dismiss NSTN's petition because it was not filed at the correct location. Section 1.106(i) of the Commission's Rules provides that a petition for reconsideration must be

¹ Letter from Ted S. Henry, President, Henry Radio, Inc. to Mr. Richard Henderson, FCC, Gettysburg, Pennsylvania (dated Aug. 2, 2001, received Aug. 6, 2001) (Petition).

² FCC Form 601 filed November 3, 2000 (FCC File No. D148338).

³ Universal Licensing System Automated Dismissal Letter, Reference No. 1000364 (dated July 24, 2001); 47 C.F.R. § 90.307. The application proposed a distance separation of 144.2 km between the site and TV Station KPBS-TV. Under Section 90.307 of the Commission's Rules, the required separation is 145 km.

⁴ Petition at 1.

submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.⁵ The Commission maintains different offices for different purposes and persons filing documents with the Commission must take care to ensure that their documents are filed at the correct location as specified in the Commission's Rules.⁶ Applications and other filings not submitted in accordance with the correct addresses or locations will be returned to the filer without processing.⁷ A document is filed with the Commission upon its receipt at the location designated by the Commission.⁸ Accordingly, as the plain language of the Commission's Rules states, a petition for reconsideration submitted to the Commission's Gettysburg, Pennsylvania office is not properly filed.⁹

5. The petition was never filed with the Office of the Secretary. Therefore, we find that the petition was not timely filed in the proper location. Moreover, NSTN did not request a waiver to file its petition in Gettysburg, rather than with the Office of the Secretary. Consequently, absent a waiver, we conclude that NSTN's petition should be dismissed as improperly filed.¹⁰ We recognize that NSTN apparently attempted to file its Petition with the Office of the Secretary, but the Petition was never properly filed because it was not received in the Office of the Secretary.

6. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the petition for reconsideration submitted by National Science and Technology Network, Inc. on August 6, 2001, IS DISMISSED.¹¹

⁵ 47 C.F.R. § 1.106(i).

⁶ 47 C.F.R. § 0.401.

⁷ *Id.*

⁸ 47 C.F.R. § 1.7; First Auction of Interactive Video and Data Service (IVDS) Licenses, Request for Waiver of Applications Deadline, *Memorandum Opinion and Order*, 11 FCC Rcd 1134, 1135 ¶ 5 (1996); Complaints Regarding Cable Programming Services Prices, *Amended Order on Reconsideration*, 10 FCC Rcd 12778, 12780 n.14 (1995).

⁹ See, e.g., Memorandum of Agreement between the Federal Communications Commission and Elkins Institute Inc., *Order on Reconsideration*, 14 FCC Rcd 5080, 5081 ¶ 3 (1999) (facsimile copy to a division office neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office); Columbia Millimeter Communications, LP, *Order on Reconsideration*, 14 FCC Rcd 2782, 2784-85 ¶¶ 9-10 (1999) (petition for reconsideration sent to the Commission's lock box at Mellon bank neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office), *aff'd.*, *Order on Reconsideration*, 15 FCC Rcd 10251 (2000).

¹¹ If we reached the Petition on the merits, we would deny the Petition. The subject application proposed a site location that clearly violated Section 90.307 of the Commission's Rules, and NSTN failed to request a waiver of that rule. Accordingly, the application was defective. See 47 C.F.R. § 1.934(d)(2).

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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